

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

ALYCIA HYSOM

Plaintiff,

V.

DECATUR INDEPENDENT SCHOOL
DISTRICT

Defendant.

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Civil Action No. _____

DEFENDANT'S NOTICE OF REMOVAL

Pursuant to 28 United States Code Sections 1331, 1441, and 1446, Defendant Decatur Independent School District (Decatur ISD or the District) removes Case No. CV-21-09-682 (the State Court Action) from the 271st Judicial District Court of Wise County, Texas, to the United States District Court for the Northern District of Texas, Fort Worth Division, and would respectfully show the Court as follows:

I. SUMMARY OF STATE COURT ACTION

1. Plaintiff Alycia Hysom filed suit against Decatur Independent School District on September 28, 2021. Included in Plaintiff's allegations against Decatur ISD is a claim arising under the Americans with Disabilities Act (ADA), which put the District on notice that Plaintiff's claims arise under federal law.

2. Defendant was served on October 1, 2021, by serving Ann Dixon, Interim Superintendent of Decatur Independent School District.

3. This removal is timely pursuant to 28 U.S.C. § 1446(b). (Appendix, Attachment B, D).

4. Defendant has not filed any papers in the State Court Action.

II. JURISDICTION

5. The State Court Action is removable under 28 U.S.C. § 1441 on the basis of federal question jurisdiction. Any civil action brought in a state court may be removed without regard to the citizenship of the parties when the district courts of the United States have original jurisdiction.¹ District courts of the United States have original jurisdiction over all civil actions arising under the Constitution and laws of the United States.²

6. Plaintiff's Original Petition contains a claim arising under law. Specifically, Plaintiff specifically states she "asserts her claim for disability discrimination in violation of the Americans with Disabilities Act and Texas Labor Code Chapter 21, "claiming "Defendant discriminated against Hysom because of her disability in violation of the ADA[]." (Petition, ¶¶41,43).

7. Because one of Plaintiff's claims arises under a federal statute, the action is removable, and the United States District Court for the Northern District of Texas, Fort Worth Division has jurisdiction.³

8. Plaintiff also alleges a claim arising under Chapter 21 of the Texas Labor Code against Decatur ISD. The Court can exercise jurisdiction over the entirety of the State Court Action because Plaintiff's Texas Labor Code claim arises out of "a common nucleus of operative facts" as that claim is premised upon the same allegedly discriminatory conduct by Decatur ISD that forms the basis of Plaintiff's ADA claim.⁴

¹ 28 U.S.C. § 1441(a).

² 28 U.S.C. § 1331.

³ See 28 U.S.C. § 1441(a).

⁴ See *United Mine Workers of Am. v. Gibbs*, 383 U.S. 715, 725 (1966); see also Plaintiff's Original Petition at pp.7-9).

9. Moreover, the Court can exercise jurisdiction over the entirety of the State Court Action because the tort claims alleged by Plaintiff arise out of "a common nucleus of operative facts" as the claims Plaintiff appears to be asserting under federal law.⁵ Specifically, all claims are based on Plaintiff's allegations regarding Decatur ISD's actions pertaining to Plaintiff in her employment at the District. As stated in the statute, Plaintiff's Texas Labor Code claim is "so related" to the federal law claim "that [it] form[s] part of the same case or controversy" and, thus, the Court may exercise supplemental jurisdiction over those claims.⁶

10. Accordingly, the entire State Court Action is removable.

III. REMOVAL REQUIREMENTS

11. Filed simultaneously herewith is an index of the process and pleadings from the State Court Action, copies of all documents filed in the State Court Action, a copy of the State Court Action docket sheet, and a certificate of interested persons.

WHEREFORE, PREMISES CONSIDERED, Defendant Decatur Independent School District respectfully requests that the State Court Action be removed to this Court for trial and determination, that all further proceedings in the State Court Action be stayed, and that Defendant have all additional relief to which it may be justly entitled.

Respectfully submitted,

By: /s/Meredith Prykryl Walker
Meredith Prykryl Walker
State Bar No. 24056487
Alexandra Mosser
State Bar No. 24107297

WALSH GALLEGOS TREVIÑO
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⁵ See *United Mine Workers of Am.*, 383 U.S. at 725.

⁶ See 28 U.S.C. § 1367(a).

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CERTIFICATE OF SERVICE

On October 22, 2021 I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

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/s/ Meredith Prykryl Walker
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